

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**FIRST REGENCY ENTERPRISES,
INC, et al.,**

Plaintiffs,

v.

CH MM DENTON LLC,

Defendant.

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Civil Action No. **3:07-CV-1175-L**

ORDER

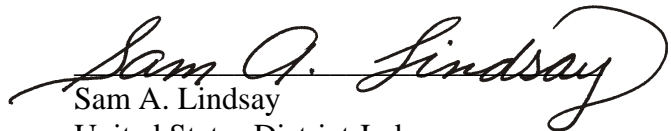
Before the court is the Report and Recommendation of the United States Magistrate Judge, filed April 27, 2009. The magistrate judge recommends granting Plaintiff First Regency Enterprises, Inc., and Aster Properties, Inc.'s Motion for Sanctions Pursuant to Rule 37 of the Federal Rules of Civil Procedure, filed March 17, 2009.

Plaintiffs seek the entry of a default judgment against Defendant CH MM Denton LLC due to Defendant's failure to appear for its deposition. The magistrate judge held a hearing on Plaintiffs' motion on April 24, 2009. Plaintiffs appeared through counsel, and Defendant's counsel appeared, but he had lost contact with his client's representatives. The magistrate judge states that it is undisputed that Defendant failed to appear for its deposition. He also notes that the court granted an earlier motion to compel against Defendant when it failed to respond to discovery and sanctioned Defendant in the amount of \$1,500 in attorney's fees to be paid by April 7, 2009. Defendant has not provided discovery or paid the \$1,500 sanction.

The magistrate judge recommends granting Plaintiffs' motion, entering default judgment against Defendant, striking Defendant's counterclaim, and sanctioning Defendant in the additional amount of \$2,500. No objections were filed to the magistrate judge's report.

The court has reviewed the magistrate judge's report, the record, and the applicable law, and determines that the findings and conclusions are correct and are therefore **accepted** as those of the court. The court therefore **grants** Plaintiff First Regency Enterprises, Inc., and Aster Properties, Inc.'s Motion for Sanctions Pursuant to Rule 37 of the Federal Rules of Civil Procedure. The court hereby **strikes** Defendant's counterclaim and **sanctions** Defendant in the amount of \$2,500 for Plaintiffs' attorney's fees incurred in filing this motion. The court will enter default judgment against Defendant, and it **directs** Plaintiffs to submit a proposed default judgment to the court no later than **June 16, 2009**.

It is so ordered this 2nd day of June, 2009.


Sam A. Lindsay
United States District Judge